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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/780,069	02/17/2004	Richard Emil Kajander	7362	9467

7590 08/25/2005

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Legal Department  
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Littleton, CO 80127

EXAMINER

SINGH, ARTI R

ART UNIT PAPER NUMBER

1771

DATE MAILED: 08/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/780,069

Applicant(s)

KAJANDER, RICHARD EMIL

Examiner

Ms. Arti Singh

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☐ Claim(s) 1-40 is/are pending in the application.
- 4a) Of the above claim(s) 1-23 and 31-38 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) 24-30, 39 and 40 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 July 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 1/12/05.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

#### DETAILED ACTION

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Claims 1-6, 31 and 32, drawn to the uncoated noncellulosic fibrous mat, classified in class 428, subclass 190.
  - II. Claims 7-13, 33 and 34, drawn to fibrous nonwoven mat, classified in class 442, subclass 327.
  - III. Claims 14-23, drawn to the method of coating, classified in class 156 in various subclasses.
  - IV. Claims 24-30, 39 and 40, drawn to the composite laminate, classified in class 442, subclass 059.

The inventions are distinct, each from the other because of the following reasons:

2. Inventions III and I, II and IV are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case the fibers could be coated prior to making them into a fabric.
3. Inventions I and II and IV are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case the different inventions Group I is an uncoated noncellulosic nonwoven mat, Group II is Fibrous coated nonwoven and Group IV is a laminate. All of these could be used by themselves as wipes or attached to other layers to form composites like diapers and the composite could be used in roofing.

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4. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

5. During a telephone conversation with Mr. Bob Touslee on 08/18/05 a provisional election was made without traverse to prosecute the invention of Group IV, claims 24-30, 39 and 40. Affirmation of this election must be made by applicant in replying to this Office action. Claims 1-23, and 31-34 withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

6. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

#### ***Claim Objections***

7. Claim 25 cannot depend from itself and is thus objected too. Appropriate correction is required.

#### ***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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9. Claims 24-30, 39 and 40 rejected under 35 U.S.C. 103(a) as being unpatentable over USPN 6187697 issued to Jaffee et al.

USPN 6187697 issued to Jaffee et al discloses fibrous nonwoven multiple layer composites (abstract). The nonwoven layers can be made of glass fibers (column 5, line 27) of different lengths and fiber diameters, but specifically shows that 13 micron in diameter is used (col. 6, line 6). A binder is used to bond the fibers together. The composition targets for the composite are about 75% glass fibers, 20-22.5 % binder.

With regard to the surface smoothness it is the position of the Examiner that it is reasonable to presume that these properties are inherent if not obvious to the composite of Jaffee et al. Support for said presumption is found in the use of compositionally similar materials, at the same weight percentages. The burden is upon Applicant to prove otherwise. See *In re Fitzgerald*, 205 USPQ 594. In addition these claimed properties would be exhibited once the Jaffee et al composite was provided. See *in re Best* 195 USPQ at 433 (CCPA 1977).

The amount of filler is not that same as that of Applicant however, it is the position of the Examiner that this is a result effective variable and is routinely adjusted by one versed in the art and would have been obvious to have increased or decrease the amount of filler within the coating which would directly affect the surface of the composite. Additionally, increasing the coating or filler amount would totally coat the nonwoven glass fibers so that they do not protrude out as shown in Column 2, or alternatively, increasing the amount of filler would allow the coating to stick better to fibers and also fill any voids within the nonwoven thereby making the coating smooth.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ms. Arti Singh whose telephone number is 571-272-1483. The examiner can normally be reached on M-F 9-5:30pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on 571-272-1478. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Ms. Arti Singh  
Primary Examiner  
Art Unit 1771

Ars 08/22/05